

10.25.18

Weber 
Gallagher

Protz Fix Passed Into Law

On October 24, 2018, Governor Tom Wolf signed into law House Bill 1840. This Bill reinstates the IRE provisions of the Pennsylvania Workers' Compensation Act with some modifications.

As before, once a claimant has received 104 weeks of total disability benefits, the employer may seek an impairment rating evaluation. The physician can be chosen by agreement of the parties or designated by the Department. The evaluation is to be done according to the 6th Edition of American Medical Association "Guides to the Evaluation of Permanent Impairment."

However, in contrast to the original language of the Act, if the determination results in an impairment rating of equal to or greater than 35% impairment, the employee shall be presumed to be totally disabled and will continue to receive total disability benefits. However, if the determination results in an impairment rating of less than 35%, the employee shall receive partial disability benefits.

The remaining sections mirror the previous provisions of Section 306 (A.2). This legislation also increased the amount provided for funeral expenses under Section 307 from \$3,000.00 to \$7,000.00.

Finally, the Compensation Ratings Bureau has been ordered to immediately calculate the savings achieved through the implementation of this legislation so as to reduce rates equal to the savings applicable to employers' workers' compensation policies.

Comment: This legislation should have the effect of significantly reducing employer premiums as there is now, once again, a mechanism in which to cap indemnity exposure in cases where the Claimant receives at least 104 weeks of temporary total disability benefits. Care should be exercised so as to request the impairment rating evaluation within 60 days of receipt of the 104 weeks of temporary total disability benefits. The Act takes effect immediately.